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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,433

05/18/2007

Jay S. Walker

03-056

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22927

7590

02/19/2010

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,433	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> MICHAEL BUTLER	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07152008; 06022006</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

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***DETAILED ACTION***

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.  
the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States  
the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al.

US20020116262A1 which discloses all the claimed elements including:

(re: 1) A method comprising:

providing an offer, via an interface at a vending machine (§33), for a benefit in exchange for an email address (§34); receiving, via the interface at the vending machine, an email address (§35); and after receiving the email address, transmitting a promotional message to the received email address, in which the promotional message includes a code that is redeemable for a benefit at the vending machine (§35)

(re: cl2) in which receiving, via an interface at a vending machine, an email address comprises: receiving a plurality of email addresses via the interface at the vending machine (§34)

(re: cl3) further comprising: validating the received email addresses (§36-password)

(re: cl4) A method comprising: providing an offer, via an interface at a vending machine (§33), for a benefit in exchange for an email address (§35);

receiving, via the interface at the vending machine, an email address (§34); and after receiving the email address, transmitting a promotional message to the received email address, in which the promotional message includes a message promoting the vending machine (§39)

(re: cl5) in which receiving, via an interface at a vending machine, an email address comprises: receiving a plurality of email addresses via the interface at the vending machine (§35 – users)

(re: cl 6) further comprising: validating the received email addresses (§ 35 passwords)

***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim(s) 7-11 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell US20020116262A1 in view of Yamaguchi wherein Mitchell discloses the elements previously discussed and further discloses:

¶

(re: cl 7) A method comprising: receiving a set of email addresses (¶35);

determining whether approval has been received (¶35; ¶39) ;

and sending a message via email transmission to each of the set of email addresses only if approval has been received (¶39)

(re: cl 8) in which sending a message via email transmission to each of the set of email addresses comprises: sending the message to a predetermined address (¶39)

(re: cl9) further comprising: receiving data representing a preference of a customer (¶39);

determining an email address from the set of email addresses that corresponds to the customer (¶35, ¶39);

determining a second message according to the preference (¶39); and sending the second message via email transmission the email address that corresponds to the customer (¶39 )

(re: cl 10) further comprising: generating a promotion for the vending machine; and in which the step of sending a message comprises: accessing a database of consumer preferences (¶36);

determining, from the database, a set of recipients that have preferences corresponding to the promotion (¶39);

and determining a respective email address for each of the set of recipients (¶39);

and sending a message via email transmission to each of the respective email addresses, in which the message indicates the promotion (¶39)

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(re: cl 11) in which generating a promotion for the vending machine comprises: generating a promotion for the vending machine based on at least one revenue management factor (§39).

Yamaguchi discloses:

identifying at least one vending machine to be associated with the set of email addresses ¶ 161; determining at least one rule defining restrictions on when a message may be sent to at least one of the email addresses ¶161; and sending a message via email transmission to each of the set of email addresses in compliance with the restrictions on when a message may be sent, in which the message includes content that promotes the vending machine ¶161

It would have been obvious at the time of the invention for Mitchell to select a specific vending machine and send an email to a vending machine to set up control parameters, pricing, and customer preferences as taught by Yamaguchi.

It would have been obvious at the time of the invention for Mitchell to operate under determined rule restrictions so as to send the message at a time when the vending machine needs modification as taught by Yamaguchi.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. B./

Examiner, Art Unit 3653

/Patrick Mackey/

Supervisory Patent Examiner, Art Unit 3653